

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3168 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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SHRIJI TRADI COMPANY

Versus

STATE OF GUJARAT

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Appearance:

MR JC SHETH for Petitioner

MR AJ DESAI for Respondent No. 1, 2

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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 16/06/2000

ORAL JUDGEMENT

#. The petitioner who was carrying on his business at Godhra, having a licence for carrying on business in the Essential Commodities like "Food Grains, Millets, Oil Seeds, etc. has filed this petition being aggrieved of the order dtd.26.2.1991 passed by the Dy. Secretary,

Civil Supplies Department in Appeal No.170/89. Wherein the authorities was pleased to confirm the order passed on 28.2.1989 bearing No.PRIV/ECA/6/A/224/88 by the District Officer, Godhra, under the provision of Sec.6(A) of the Essential Commodities Act 1955. The order was passed to the effect that the stock of various items like paddy, bajri, tuvar valued at Rs.45,157/- 50% of that be forfeited.

#. What was alleged against the petitioner was that when the petitioner's shop was visited on 18.11.88 by the Supply Inspector he had found certain irregularities. Amongst these irregularities one of the irregularity was that the stock of various items was found either less or in excess than the books of account, thus the books of account were not maintained properly. It was also alleged against the petitioner that the petitioner had carried on business at the place other than the one which was mentioned in the licence. The other irregularity alleged against the petitioner was that at the relevant time puccka bills were not given to the consumer and that the books of account were not maintained in manner so as to ascertain stock of the items.

#. Mr.J.C.Seth, learned advocate appearing for the petitioner vehemently submitted that the judgment and order passed by the appellate authority in an appeal is against the principles of natural justice, equity and good conscious and that the same is arbitrary and void of reasonings and therefore it is illegal and bad. It is also submitted by Mr.Seth the learned advocate that without any cogent reason, authorities have come to the conclusion that the alleged irregularities have been proved and the reasons advanced by the petitioner were not accepted. In the alternative Mr.Seth, submitted that the irregularities which are alleged against the petitioner are of minor nature and they are bound to occur in any business and therefore the same should not have been termed as misconduct on the part of the petitioner and should not have invited the penalty imposed on the petitioner. Thus it was submitted, that, punishment imposed is illegal and bad and therefore the same is required to be quashed and set aside by this court.

#. On the other hand, Learned A.G.P. Mr.Desai submitted that this petition is under Article 227 of the Constitution of India and that there are concurring findings recorded by two authorities, that the irregularities alleged against the petitioner were found to have been proved and therefore no interference is

called for at the hands of this court while exercising the jurisdiction under Article 227 of the Constitution of India. Mr.Desai, also submitted that the matter involves the question of "quantum of punishment". Mr.Desai, submitted that as such the Dist. Supply Officer had ordered forfeiture of 50% of the amount, of which the stock was found to have been involved in irregularity. The penalty of 50% is reduced by the appellate authority by 50%. The value of the goods involved in the irregularity was Rs.45,157/-. By the order of Dist. Supply Officer, 50% of the amount, i.e. Rs.22,578/- was ordered to be forfeited. This amount is further reduced by 50% by the appellate authority. Thus only 25% of the value of the goods found to have been involved in the irregularity stands forfeited. In that view also the order does not warrant any interference at the hands of this court.

#. Taking into consideration the rival contentions of both the sides and taking into consideration the fact that the irregularities which were alleged against the present petitioner were of the nature which does warrant a penalty to be imposed on the petitioner, more particularly when accounts are not maintained in a manner so as to ascertain the stock and on the ground that the puccka bills were not issued to the customer at the relevant time. In view of the fact that concurring findings are recorded by the two authorities this court does not feel that any interference is warranted at the hands of this court under Article 227 of the Constitution of India. In the result the petition fails. The ad interim relief granted earlier stands vacated. Rule is discharged with no order as to costs.

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